

REMARKS

The Office Action June 8, 2001, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto.

By this Amendment, the specification and claims 11, 30 and 33 are amended. New claims 37-40 are added. No new matter is presented. Claims 1-40 are respectfully submitted for consideration.

The specification was amended to reflect the amendments to the claims.

Claim 11 was amended to correct a minor informality. Claim 30, which was indicated as containing allowable subject matter was re-written in independent form. Claim 33 was amended to depend from claim 30.

Claims 1-9, 12-26, 28, 29 and 33-35 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40-43 of U.S. Patent No. 6,237,776 in view of U.S. Patent No. 4,468,933 to Christopher.

Claims 1-9, 12-26, 28, 29 and 33-35 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claim of U.S. Design Patent No. 419,770 in view of Christopher.

Claims 10, 11 and 27 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over "the prior application" as applied to claims 1-9, 12-26 and 28-36 and further in view of U.S. Patent No. 5,842,571 to Rausch.

Double Patenting over U.S. Patent No. 6,237,776

The Office Action suggested that a timely filed terminal disclaimer may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground. The Applicant has filed, concurrent with the submission of this Response, a terminal disclaimer with respect to claims 1–29 of the present application as against U.S. Patent No. 6,237,776. The Applicant respectfully submits that the rejection of claims 1–9, 12–26, 28, 29 and 33–35 in view of U.S. Patent No. 6,237,776, and claims 10, 11 and 27 in view of U.S. Patent No. 6,237,776 and Rausch on this ground is successfully overcome and requests the Examiner to withdraw the rejections. The Applicant further submits that claims 1–29 and 33–35 are now allowable, subject to the Applicant's terminal disclaimer.

Double Patenting over U.S. Design Patent No. 419,770

The Office Action suggested that a timely filed terminal disclaimer may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground. The Applicant has filed, concurrent with the submission of this Response, a terminal disclaimer with respect to claims 1 – 9, 12 – 26, 28, 29 and 33 – 35 of the present application as against the U.S. Design Patent No. 419,770. The Applicant respectfully submits that the rejection of claims 1 – 9, 12 – 26, 28, 29 and 33 – 35 on this ground is successfully overcome and requests the Examiner to withdraw the rejection. The Applicant further submits that claims 1 – 9, 12 – 26, 28, 29 and 33 – 35 are now allowable, subject to the Applicant's terminal disclaimer.

The Applicant wishes to thank the Examiner for indicating allowable subject

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matter in claims 30 – 32 and 36. To that end, claim 30 has been re-written in independent form. Inasmuch as claims 31, 32 and 36 depend from claim 30, the applicant submits that they are also presently allowable. Claim 33 formerly contained a typographical error, namely that the dependency formerly indicated claim 20, rather than claim 30. As this has now been amended, and given that claim 30 has been re-written in independent form as suggested by the Examiner, the Applicant submits that claim 33 is presently allowable.

Claims 34 and 35 were rejected under a double patenting type obviousness rejection. The Applicant notes that both claim 34 and 35 depend from claim 31. Claim 31 depends from claim 30. The Office Action has indicated that claim 30 would be allowable if re-written in independent form, as it has now been. As claims 34 and 35 depend from a claim that has been indicated as being allowable, the Applicant submits that claims 34 and 35 are also allowable.

Claims 1-40 are pending. Claims 2-13 depend from claim 1, claims 15-19 depend from claim 14, claims 21-29 depend from claims 20, claims 31-36 depend from claims 30 and claims 38-40 depend from claims 37. The Applicant respectfully submits that these depending claims are allowable for their dependency from allowable base claims 1, 14, 20, 30 and 37, as well as the additional subject matter recited therein. Accordingly, the Applicant respectfully requests allowance of claims 1-40 and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.



In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 01-2300.

Respectfully submitted,



Rhonda L. Barton
Attorney for Applicant
Reg. No. 47,271

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036-5339
Tel: (202) 857-6000
Fax: (202) 638-4810

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Enclosures: Marked-Up Copy of Original Claims 11, 30 and 33
Marked-Up Copy of Original Specification
Associate Power of Attorney
Submission of Terminal Disclaimer
Petition for Extension of Time (3 months)
Extra Claims Fees
Information Disclosure Statement (with 1 reference)
Check No. 331029



MARKED-UP COPY OF ORIGINAL CLAIMS 11, 30 AND 33

11. (Amended) The cooler of claim 10 [12] wherein said shrouding member includes a collar and a drawstring operable to urge said collar to a closed position

30. (Amended) [The cooler assembly of claim 29 wherein said vessel is a mister and said mister has] A cooler assembly comprising:

an insulated wall structure having a top, a bottom, and a flexible insulated sidewall extending therebetween to define an insulated compartment therewithin,

said insulated sidewall having a height and a breadth; said height being greater than said breadth;

said insulated sidewall having a first portion and an arcuate second portion attached thereto;

said first and second portions defining a D-shaped cylinder extending between said bottom and said top;

a portion of said insulated wall structure being moveable to an open position to permit objects to be placed in said insulated compartment;

a receptacle mounted to said insulated sidewall;

a mister removeably mounted within said receptacle;

said mister having,

a liquid reservoir;

a pressurization apparatus removeably mounted to said reservoir;

a spray nozzle in fluid communication with said reservoir; and

a valve operable to control the flow of liquid to said spray nozzle.

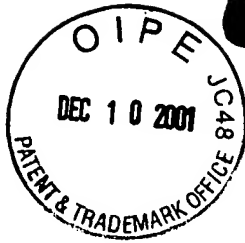
33. (Amended) The cooler assembly of claim [20] 30 further comprising:

a second receptacle mounted to said insulated sidewall; and

a second vessel for containing liquid, removeably mounted within said second receptacle.

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MARKED-UP COPY OF AMENDMENTS TO THE SPECIFICATION

--In another aspect of the invention there is a cooler. The cooler has an insulated wall structure having a top, a bottom, and a flexible insulated sidewall extending therebetween to define an insulated compartment therewithin. The insulated sidewall has a height and a breadth. The height is greater than the breadth. The insulated sidewall has a first portion and an arcuate second portion attached thereto. The first and second portions define a D-shaped cylinder extending between the bottom and the top. A portion of the insulated wall structure is moveable to an open position to permit objects to be placed in the insulated compartment. A receptacle is mounted to the insulated sidewall. [In a further additional feature of that aspect of the invention, the vessel is a mister and the mister] A mister is removeably mounted within the receptacle and has a liquid reservoir. It has a pressurization apparatus removeably mounted to the reservoir, a spray nozzle in fluid communication with the reservoir and a valve operable to control the flow of liquid to the spray nozzle.--

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